

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Gregory Morril	Team: Team # 5	CCRB Case #: 200615874	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/14/2006 5:58 PM	Location of Incident: in front of 527 Lenox Avenue	Precinct: 32	18 Mo. SOL 4/14/2008	EO SOL 4/14/2008	
Date/Time CV Reported Fri, 10/20/2006 10:28 AM	CV Reported At: Police Commissioner's Office	How CV Reported: Mail	Date/Time Received at CCRB Fri, 11/24/2006 3:25 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Stephen Polesovsky	17083	940589	032 PCT
2. POF Gipsi Zorrilla	03686	940892	032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Bianca Guerrido	14293	940224	032 PCT
2. POF Allison Ross	30436	941130	032 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Gipsi Zorrilla	Abuse: Police Officer Gipsi Zorrilla issued a summons to § 87(2)(b)	
B.POM Stephen Polesovsky	Abuse: Police Officer Stephen Polesovsky refused to provide his name and shield number to § 87(2)(b)	
C.POM Stephen Polesovsky	Abuse: Police Officer Stephen Polesovsky threatened to arrest § 87(2)(b)	

Synopsis

On October 14, 2006, § 87(2)(b) § 87(2)(b) the pastor of the Abyssinian Baptist Church in Harlem, parked his vehicle in a bus stop at West 137th Street and Lenox Avenue in Manhattan, while he entered a restaurant and ordered food for his granddaughter. Shortly after § 87(2)(b) § 87(2)(b) exited his vehicle, Police Officer Gipsi Zorrilla approached § 87(2)(b) § 87(2)(b)s vehicle and told his wife, who was seated in the passenger seat, that she needed to move the car out of the bus stop. Mrs. § 87(2)(b) exited the vehicle and alerted her husband to move the car. § 87(2)(b) § 87(2)(b) quickly exited the restaurant and said to Officer Zorrilla in what he described as a “light manner,” “Hey, you guys didn’t even give me time to pay for my food.” Officer Zorrilla and her partner, Police Officer Stephen Polesovsky, both stated that § 87(2)(b) § 87(2)(b) immediately spoke to Officer Zorrilla in a “nasty” voice. § 87(2)(b) § 87(2)(b) moved his vehicle into a parking space that he claimed was outside of the bus stop but that Officers Zorrilla and Polesovsky testified at the CCRB was still within the bus stop. Officer Zorrilla approached the vehicle and started to write § 87(2)(b) § 87(2)(b) a summons for parking in a bus stop (**allegation A**). When § 87(2)(b) § 87(2)(b) asked why he was receiving the summons after moving his vehicle, Officer Polesovsky told § 87(2)(b) § 87(2)(b) that the summons was due to his “attitude.” Officer Polesovsky acknowledged making this comment, while Officer Zorrilla and two witness officers, Police Officers Bianca Guerrido and Allison Ross, denied hearing Officer Polesovsky make such a comment. § 87(2)(b) § 87(2)(b) protested the comment and asked for Officer Polesovsky’s name. According to § 87(2)(b) § 87(2)(b) Officer Polesovsky turned around and walked away from § 87(2)(b) § 87(2)(b) without providing this information (**allegation B**). § 87(2)(b) § 87(2)(b) followed Officer Polesovsky and demanded that he provide this information. Officer Polesovsky acknowledged that § 87(2)(b) § 87(2)(b) asked him for his shield number multiple times but claimed that he provided this information at least two times by pointing at his shield and saying, “It’s right here.” § 87(2)(b) § 87(2)(b) denied that Officer Polesovsky ever provided any response. By his own admission, § 87(2)(b) § 87(2)(b) became “upset” and “very agitated” and yelled at Officer Polesovsky to the point where onlookers had to intervene to keep § 87(2)(b) § 87(2)(b) away from Officer Polesovsky. As the incident progressed, Officer Polesovsky admittedly removed his handcuffs, implicitly threatening § 87(2)(b) § 87(2)(b) with arrest (**allegation C**).

On § 87(2)(b), an administrative judge from the New York City Department of Finance dismissed the summons issued to § 87(2) § 87(2)(b) because Officer Zorrilla did not write the vehicle registration expiration date of § 87(2) § 87(2)(b)'s car on the summons. § 87(2)(b), § 87(2)(g)

On December 28, 2005, the CCRB's Director of Mediation, Victor Voloshin, presented § 87(2)(b) § 87(2)(b) with the options of mediation and investigation for his case. § 87(2)(b) § 87(2)(b) decided to pursue an investigation. This case appeared on the CCRB's monthly sensitive case list due to extensive media coverage of the incident.

Summary of Complaint

§ 87(2)(b), § 87(2)(b) a § 87(2)(b) black man § 87(2)(b), filed a complaint by mail with New York City Police Commissioner Raymond Kelly on October 20, 2006 (encl. 13). The Internal Affairs Bureau of the NYPD generated a formal complaint on October 27, 2006 in a telephone conversation with § 87(2)(b), § 87(2)(b) (encl. 14). This complaint was forwarded to the CCRB on November 24, 2006 (encl. 15).

§ 87(2) § 87(2) made a number of statements regarding this incident to various media outlets. In a newspaper article in the § 87(2)(b) § 87(2) § 87(2)

was reported as saying that on October 14, 2006, he parked his car at a bus stop on the corner of West 137th Street and Lenox Avenue in Manhattan. While § 87(2)(b) was inside of a restaurant picking up some food, his wife warned him that his car was about to receive a summons. § 87(2)(b) quickly moved his car and commented to a female officer (identified by the CCRB's investigation as Officer Gipsi Zorrilla) as he did so that she hadn't even given him time to purchase his food. After § 87(2)(b) moved his car, he was surprised to see that Officer Zorrilla was writing him a summons. § 87(2)(b) asked Officer Zorrilla to explain why he was receiving a summons, and a young white male officer who was with Officer Zorrilla (identified by the CCRB's investigation as Officer Stephen Polesovsky), responded, "Because you gave her attitude." § 87(2)(b) is quoted as saying, "When he said that, I lost my composure." According to the story, § 87(2)(b) questioned the legitimacy of the summons in a "raised voice" and demanded that Officer Polesovsky provide his name and shield number. Officer Polesovsky refused to state his name or shield number and walked away from § 87(2)(b). § 87(2)(b) followed him and said that he was going to "harass" the officer until he provided the information. Officer Polesovsky reportedly showed § 87(2)(b) a pair of handcuffs. § 87(2)(b) said, "I think I was ready to have a physical altercation with him if it had not been for some of the people in the community." According to the story, witnesses prevented § 87(2)(b) from further engaging the officer by holding him back. Without the intervention of those witnesses, § 87(2)(b) said, "It would have been a disastrous thing for one or both of us. I could not take that type of treatment as a black man." In the article, § 87(2)(b) called Officer Polesovsky "rude" and "disrespectful" and said that he believes that the officer's reaction to him was racially motivated (encl. 16). Only one witness to this incident is identified by name in the article, § 87(2)(b) (see witness section of this report for his statements to the § 87(2)(b) and the CCRB).

In his October 20, 2006 letter to Commissioner Kelly, § 87(2)(b) enclosed the parking summons issued to him with a plea of not guilty. § 87(2)(b) mentioned that the issuing officer told him that he was receiving the summons because he showed "attitude" and said that he was "furious by the behavior" of the officers involved but did not provide further information. On October 27, 2006, Officer Rodney Howard of the Internal Affairs Bureau contacted § 87(2)(b) by telephone and generated a formal complaint based on the letter to Commissioner Kelly. In this telephone statement to IAB, § 87(2)(b) provided a consistent account of the incident with those provided to the media (encl. 20).

In a § 87(2)(b) article in the § 87(2)(b), § 87(2)(b) reportedly provided a consistent account of this incident with that summarized above and said that he wanted the officers involved to come to his church and apologize to "the community." The § 87(2)(b) article did not specify whether the second parking space into which § 87(2)(b) moved his car was legal or not. The § 87(2)(b) article referred to § 87(2)(b)'s second parking space as "legitimate" (encl. 17). On § 87(2)(b), § 87(2)(b) provided consistent accounts of this incident in a § 87(2)(b) television report and a brief article on the § 87(2)(b) News (encl. 18-19). In the § 87(2)(b), there was no mention of the threat of arrest. In the § 87(2)(b), § 87(2)(b) says on camera, "I lost it," referring to his response to Officer Polesovsky's comment about § 87(2)(b)'s "attitude."

The CCRB interviewed § 87(2)(b) at the § 87(2)(b) on January 31, 2007 (encl. 21). § 87(2)(b) testified that on October 14, 2006, he drove with his wife, § 87(2)(b) and his § 87(2)(b)-old granddaughter, whom he declined to identify by name to a restaurant on West 137th Street and Lenox Avenue called either Jimbo's or Jumbo's. § 87(2)(b) parked behind a number of other cars at the corner of the street and went inside of the restaurant directly in front of his car and ordered dinner. About five minutes after § 87(2)(b) had entered the restaurant, Mrs. § 87(2)(b) exited the vehicle and tapped on the front window of the restaurant, indicating to § 87(2)(b) that he needed to move the car. § 87(2)(b) exited the restaurant almost immediately after his wife pointed and saw two to three police officers standing outside. The cars that had been parked in front of § 87(2)(b)'s vehicle had since driven away, and § 87(2)(b) realized that he had been parked in a bus stop. As § 87(2)(b) was walking towards his vehicle, he said to the officers in a "light manner," "Hey, you guys didn't even give me time to pay for my food." At this point, the officers were just standing outside of the restaurant and § 87(2)(b) did not believe that any of them were writing a summons or anything else but rather were just "being friendly." § 87(2)(b) said that he was grateful that the officers had not yet written him a ticket and had given Mrs. § 87(2)(b) the opportunity to alert § 87(2)(b) that he needed to move his car. § 87(2)(b) got inside of his car and pulled it forward to an unoccupied spot that was governed by a parking

meter as another car was pulling out of this same spot. § 87(2) § 87(2) did not put money into the parking meter and did not know if any was required at the time of this incident. As § 87(2) § 87(2) exited his vehicle to go back into the restaurant and get his food, he saw that an officer—identified by investigation as Officer Zorrilla—was writing him a summons. § 87(2) § 87(2) asked Officer Zorrilla why she was writing him a ticket, as he had moved his car. A second officer—identified by investigation as Officer Polesovsky—replied, “You’re getting a ticket, because you showed her attitude.”

After hearing this comment, § 87(2) § 87(2) stated that he was, “very upset and agitated” and said to Officer Polesovsky, “What do you mean attitude? How dare you?” § 87(2) § 87(2) said to Officer Polesovsky, “We spend a lot of time out here trying to improve police-community relations” and identified himself as a city clergy liaison and showed him his Human Rights Commission shield and identified himself as a Human Rights commissioner. § 87(2) § 87(2) also said, “This is outrageous” and “It’s police officers like you that make things difficult.” Officer Polesovsky told § 87(2) § 87(2) that he could have just said “thank you” to the officers for not writing him a ticket when he exited the restaurant. § 87(2) § 87(2) told Officer Polesovsky that he hadn’t said anything negative and that the officers could have let him pay for his food, but regardless he moved his car away. Officer Polesovsky turned to walk away, and § 87(2) § 87(2) told Officer Polesovsky, “This is unfair. This is totally wrong. I would like your names, so that I can report this.” Officer Polesovsky replied, “We don’t have to give you our names” and turned away from § 87(2) § 87(2)(b) § 87(2) § 87(2) had been standing about five feet away from Officer Polesovsky when he requested his name.

§ 87(2) § 87(2) became “very agitated” and upset, because he knew that Officer Polesovsky was required to provide this information and thought that Officer Polesovsky was being “difficult.” § 87(2) § 87(2) told Officer Polesovsky, “You do have to give me your name, and I’m going to follow you around Harlem today and harass you until you give me your name. I’m going to continue to walk with you, and you can arrest me if you want to.” Officer Polesovsky then turned around, and § 87(2) § 87(2) saw that he had his handcuffs in his hand and was holding them up. § 87(2) § 87(2) did not recall Officer Polesovsky saying anything to him, once he removed the handcuffs. § 87(2) § 87(2) did not see exactly when Officer Polesovsky removed his handcuffs. § 87(2) § 87(2) said that he had remained three to five feet away from Officer Polesovsky throughout this incident, but once Officer Polesovsky removed his handcuffs, he walked closer towards him and was less than one foot away. § 87(2) § 87(2) said that his voice in addressing Officer Polesovsky could be described as “a yell.”

When Officer Polesovsky removed his handcuffs, § 87(2) § 87(2) interpreted it as a threat to arrest him or harass him. Two people whom § 87(2) § 87(2) could not identify by name grabbed onto § 87(2) § 87(2) and pulled him away from Officer Polesovsky. Officer Polesovsky turned and walked north on Lenox Avenue. § 87(2) § 87(2) said that one of the two people who held him back addressed him as “§ 87(2) § 87(2)(b)” and he presumed that she was a member of his church, but he did not know her name. Officer Zorrilla tried to calm § 87(2) § 87(2) and told him not to worry about the summons, because he could contest it. § 87(2) § 87(2) told her that he was going to have to pay the summons, as she had already issued it to him and that it would be difficult for him to contest it. § 87(2) § 87(2) said that he might have been able to understand if he received a summons for parking at an expired meter but was upset that Officer Polesovsky told him that the summons was for “attitude.” Officer Zorrilla never handed the summons to § 87(2) § 87(2) but placed it on the windshield of his car, while § 87(2) § 87(2) was walking behind Officer Polesovsky and attempting to obtain his name. Mrs. § 87(2) § 87(2) was inside of the car at this point. § 87(2) § 87(2) never asked Officer Zorrilla for her name, because he assumed that it would be written on the summons that he saw her writing. § 87(2) § 87(2) said that he had asked Officer Polesovsky to provide “all of your names” referring to him and the other officers.

§ 87(2) § 87(2) estimated that there were approximately fifteen civilians standing outside and witness to this interaction, but he could not identify any of them. He did not know if the restaurant employees were present but stated that he imagined that they were present, because he was “rather agitated.” § 87(2) § 87(2) also saw two additional police officers dressed in uniform (identified by investigation as Officers Bianca Guerrido and Allison Ross), whom he believed had been present throughout the incident and had been walking with Officers Polesovsky and Zorrilla. § 87(2) § 87(2) did not have any interaction with these two officers and could not describe anything about them, including their race or gender. § 87(2) § 87(2) was never able to see Officer Polesovsky’s name or shield number from his nameplate, but one of the people in the

crowd wrote down Officer Polesovsky's name and handed § 87(2)(b) a piece of paper with this information on it. § 87(2)(b) did not retain this piece of paper but said that it contained Officer Polesovsky's name only, "Polofsky," and not his shield number. Although § 87(2)(b) later spoke with the police commissioner, the mayor, Inspector Cody of the 32nd Precinct, and an officer from IAB via telephone about this incident, none of them mentioned Officer Polesovsky's name but indicated that they knew the officers involved. Commissioner Kelly, Mayor Bloomberg, and Inspector Cody were all apologetic in their conversations with § 87(2)(b) but § 87(2)(b) did not have any further interaction with the officers involved in the incident.

§ 87(2)(b) did not know Officer Zorrilla's name but described her as a Hispanic woman, who was in her early twenties and was approximately 5'5" tall, and dressed in uniform. § 87(2)(b) described Officer Polesovsky as a white man, who was in his early twenties and approximately 6'0" tall, and dressed in uniform.

Results of Investigation

Canvass of Location of Incident

On February 15, 2007, the CCRB conducted a canvass of the vicinity of West 137th Street and Lenox Avenue in Manhattan (encl. 22). At Jimbo's Restaurant, a store employee present at the time of the canvass was not familiar with the incident under investigation. At Amy's Beauty Salon (531 Lenox Ave) next to Jimbo's Restaurant, a store employee was not familiar with the incident. The storeowner, § 87(2)(b), said that he had partially witnessed the incident under investigation but did not have time to give a statement to the CCRB at the time of this canvass. At Rain or Shine Umbrellas, Incorporated (also at 531 Lenox Ave), the CCRB obtained witness statements from § 87(2)(b) and § 87(2)(b).

CIVILIAN WITNESS STATEMENTS

§ 87(2)(b) The CCRB interviewed § 87(2)(b) a § 87(2)(b)-old black woman who works on a volunteer basis at the § 87(2)(b), on February 15, 2007 at the § 87(2)(b) at 132 Odell Clark Place in Manhattan (encl. 25). Mrs. § 87(2)(b)'s testimony regarding the commencement of this incident was consistent with that of § 87(2)(b). While Mrs. § 87(2)(b) was sitting inside the front passenger seat of the car, two female police officers (identified by investigation as Officers Zorrilla and Guerrido) approached Mrs. § 87(2)(b) and told her that she could not leave the car parked where it was parked. Mrs. § 87(2)(b) ran out of the vehicle and alerted § 87(2)(b) to move the car. Mrs. § 87(2)(b) immediately returned to the vehicle, as § 87(2)(b) exited the restaurant to attend to the car. As § 87(2)(b) was walking towards his car, he said to the officers, "You're not even going to let me pay for my food?" One of the officers—who Mrs. § 87(2)(b) said was likely Officer Zorrilla—said, "No" and § 87(2)(b) responded, "OK" and entered the car. Mrs. § 87(2)(b) did not believe that § 87(2)(b) actually intended for the officers to answer his question but was rather just making a rhetorical comment, because he did not stop walking towards his car or wait for the response. Mrs. § 87(2)(b) described § 87(2)(b)'s voice tone as "quiet." § 87(2)(b) drove the vehicle southbound within the bus stop. There were a number of cars double-parked south of the bus stop, but there were no other cars parked within the bus stop. Directly south of the bus stop there was a parking meter space and the driver of the vehicle in that space was sitting inside of her vehicle as § 87(2)(b) was approaching it. After a few minutes, this driver pulled out of the space and § 87(2)(b) parked there. Mrs. § 87(2)(b) did not know if the parking meter required money at the time of this incident. § 87(2)(b) then exited the vehicle and started to walk towards Jimbo's Restaurant. § 87(2)(b) closed the driver's side door behind him, and Mrs. § 87(2)(b) did not hear him say anything upon exiting the vehicle. The driver's side window was likely closed and the front passenger window may have been cracked open.

About halfway between the car and the restaurant, Mrs. § 87(2)(b) looked at the side view mirror of the car and saw that Officers Zorrilla and Guerrido had been joined by a third officer (identified as Officer Polesovsky) and that the officers were "stopping" § 87(2)(b). Mrs. § 87(2)(b) did not know where Officer Polesovsky had come from and had not seen him previously. The officers stopped § 87(2)(b) by standing in his path to the restaurant. Mrs. § 87(2)(b) could not hear what § 87(2)(b) and the officers were discussing but saw that the conversation had become more "animated" than before. § 87(2)(b) appeared to be standing in one spot and was "using" his hands to speak emphatically as if he were preaching, but Mrs. § 87(2)(b) denied that § 87(2)(b) was aggressively "gesturing." Mrs. § 87(2)(b) considered exiting the car and taking photographs with her cell phone but was "afraid" to do so, because she did not want any

“misunderstandings” with the officers about why she was jumping out of the vehicle. Officer Zorrilla then walked over to § 87(2)(b) § 87(2)(b)s car and placed a summons on the windshield. Mrs. § 87(2) rolled down her window and asked Officer Zorrilla why they were receiving a summons after they had done what the officers asked them to do, but Officer Zorrilla never responded. Mrs. § 87(2) never saw Officer Zorrilla writing the summons at any point. Mrs. § 87(2) did not see or hear any further discussion between § 87(2) § 87(2) and the officers and said that she deliberately stayed in the car to protect her granddaughter. Mrs. § 87(2) turned around and was leaning towards the rear of the vehicle on the driver’s side in order to speak with her granddaughter. When § 87(2) § 87(2) got back into the vehicle, Mrs. § 87(2) asked him what had happened. § 87(2) § 87(2) said that the officers told him that he had “attitude.” Mrs. § 87(2) never heard § 87(2) § 87(2) ask the officers for their names or shield numbers, but once he returned to the car, Mrs. § 87(2) asked § 87(2) § 87(2) if he had obtained the officers’ information. § 87(2) § 87(2) said that he had asked for it, but the officers had refused to provide it. After the incident, Mrs. § 87(2) learned that the workers at the Rain or Shine Umbrella shop and a choir member at the church named § 87(2)(b) (later identified as § 87(2)(b) § 87(2)(b)) witnessed this incident. One of the employees of the umbrella shop approached Mrs. § 87(2) when she was walking past the store a few days after the incident. Mrs. § 87(2) said that she has been in the store previously and has purchased items for the church from the location, so the employees knew who she was.

Mrs. § 87(2) did not know the officers’ names but described Officer Zorrilla as a white or Hispanic woman with a medium skin tone. Mrs. § 87(2) described Officer Guerrido as a white or Hispanic woman with a lighter skin tone than Officer Zorrilla. Officer Polesovsky was described as a white man, who was approximately the same height as § 87(2) § 87(2) (5’10”).

§ 87(2)(b) § 87(2)(b) a § 87(2)(b) -old black man employed as the manager of Rain or Shine Umbrellas, Incorporated, provided statements regarding this incident in the October 19, 2006 to October 25, 2006 edition of § 87(2)(b) § 87(2)(b) (encl. 23). § 87(2)(b) § 87(2)(b) reportedly told the newspaper that he and his uncle § 87(2)(b) § 87(2)(b) physically restrained § 87(2) § 87(2) from further engaging the officer. “He didn’t do anything wrong,” § 87(2)(b) § 87(2)(b) is quoted as saying. “I was holding him back because I didn’t want to see anything happen to him. You know how cops are.”

On February 15, 2007, the CCRB interviewed § 87(2)(b) § 87(2)(b) at Rain or Shine Umbrellas, Incorporated at 531 Lenox Avenue in Manhattan (encl. 24). § 87(2)(b) § 87(2)(b) testified that on October 14, 2006, he was standing outside of the store smoking a cigarette with his uncle, § 87(2)(b) § 87(2)(b). A black Cadillac was parked in front of Jimbo’s Restaurant on the corner of West 137th Street and Lenox Avenue. A woman (Mrs. § 87(2)(b) § 87(2)(b)) was sitting inside the vehicle, when two police officers (Officers Zorrilla and Polesovsky) approached the vehicle, and Officer Zorrilla told Mrs. § 87(2) § 87(2) to move the car. Mrs. § 87(2) § 87(2) exited the vehicle and knocked on the window of Jimbo’s Restaurant and told her husband (§ 87(2) § 87(2)(b) § 87(2)(b)) to move the car. § 87(2)(b) § 87(2)(b) only learned about § 87(2) § 87(2)(b)s identity later and said that at the time of this incident, he did not know that the person involved in this incident was § 87(2) § 87(2)(b) § 87(2)(b). § 87(2)(b) § 87(2)(b) said that he might have recognized § 87(2) § 87(2)(b)s face as someone who was from the community. § 87(2)(b) § 87(2)(b) has provided T-shirts to church and played free music for church events on the block but did not ever personally interact with § 87(2) § 87(2)(b) although he may have spoken with Mrs. § 87(2)(b) § 87(2)(b) says that he is Catholic and does not attend § 87(2) § 87(2)(b)s church.

§ 87(2) § 87(2) § 87(2) exited the restaurant and got into his car and moved it into a parking space with a parking meter that was just south of the bus stop on Lenox Avenue. § 87(2)(b) § 87(2)(b) did not hear § 87(2) § 87(2) say anything to Officer Zorrilla when he exited the restaurant but said that he may have been standing too far away to hear a conversation, if one took place. § 87(2) § 87(2) § 87(2) pulled his car into this parking space just as another car was vacating it. At the time of this interview, § 87(2)(b) § 87(2)(b) identified this parking space as the same one that was currently occupied by a Maroon SUV (see enclosure 12b, CCRB canvass photograph number three, where this vehicle and the parking space are visible. The photograph was taken a few minutes before the interview). Once § 87(2) § 87(2) § 87(2) pulled into this parking space, Officer Zorrilla approached the vehicle and started to write a summons. § 87(2) § 87(2) § 87(2) exited the car and asked Officer Zorrilla, “Is that ticket for me?” Officer Zorrilla responded that it was, and § 87(2) § 87(2) § 87(2) asked, “Why? I did what you told me to do.” Officer Zorrilla said, “Because of your attitude.” § 87(2)(b) § 87(2)(b) § 87(2)(b) believed that Officer Zorrilla handed the summons to § 87(2) § 87(2)(b) § 87(2)(b) § 87(2)(b) approached the officers and told them that it was not right to give

§ 87(2) § 87(2) a summons. § 87(2) § 87(2) pulled out identification and asked the officers for their shield numbers. Officer Polesovsky approached § 87(2) § 87(2) and said, “We don’t have to give you nothing.” § 87(2) § 87(2) and the officers then started to argue and were walking towards Jimbo’s Restaurant while doing so. § 87(2) § 87(2) became angry with the officers for not providing their shield numbers and was saying that they were required to provide the information. § 87(2) § 87(2) was speaking in a slightly louder voice than normal, but he was not screaming or cursing at the officers and it did not appear that he was trying to fight with the officers. At this point, a third officer, who § 87(2)(b) could describe only as possibly being a woman, approached Officers Zorrilla and Polesovsky, but § 87(2)(b) did not know where this officer came from. A crowd of civilians gathered and some of them were yelling out § 87(2) § 87(2)(b)’s name. Officer Zorrilla approached § 87(2)(b) and told him to tell § 87(2) § 87(2) that they would get the summons dismissed. § 87(2)(b) was skeptical that Officer Zorrilla had the authority to do so but approached § 87(2) § 87(2) in front of the restaurant and grabbed him around the waist to keep him away from the officers. § 87(2)(b) was attempting to prevent § 87(2) § 87(2) from being arrested by the officers. At this point, the officers were starting to walk away from § 87(2) § 87(2)(b) and § 87(2)(b) never saw any of the officers remove a set of handcuffs.

§ 87(2)(b) told § 87(2) § 87(2) that the officers would not get away with what they were doing, because there were too many witnesses and that he should just go into the restaurant and buy his food. § 87(2) § 87(2) said to § 87(2)(b) “You’re right son” and went inside of Jimbo’s Restaurant. § 87(2)(b) never obtained the officers’ names, and the officers never responded to § 87(2) § 87(2)(b)’s request to state their shield numbers. § 87(2)(b) never saw any of the officers pointing at their shields. § 87(2)(b) said that one woman, who may have been a member of § 87(2) § 87(2)(b)’s congregation because she addressed § 87(2) § 87(2) by name, may have said something to § 87(2) § 87(2) about having copied down the officers’ names. § 87(2)(b) said that three to four days after the incident, he saw a picture of § 87(2) § 87(2) in the § 87(2) § 87(2)(b) and a story about the incident, but § 87(2)(b) did not read the story because he already knew what it was about from witnessing it. After the incident, some people from the church stopped by the store and discussed the incident with § 87(2)(b) after seeing him restrain § 87(2) § 87(2)(b).

§ 87(2)(b) described Officer Zorrilla as a 5’5” Hispanic woman with black hair and Officer Polesovsky as a 6’0” white man with a muscular build, who had either blond hair or no hair at all.

§ 87(2)(b)
On February 15, 2007, the CCRB interviewed § 87(2)(b) an § 87(2)(b)-old black man and retired SkyCap employee for Trans World Airlines, at 531 Lenox Avenue in Manhattan (encl. 26). § 87(2)(b) § 87(2)(b) grandson, § 87(2)(b) owns Rain or Shine Umbrellas, Incorporated and § 87(2)(b) occasionally helps out at the store. § 87(2)(b) § 87(2)(b)’s statement to the CCRB was consistent with that of § 87(2)(b) with only inconsistencies noted below. § 87(2)(b) confirmed that on October 14, 2006, he was standing outside of the umbrella shop with § 87(2)(b) and saw § 87(2) § 87(2) speaking with a Hispanic female police officer (Officer Zorrilla). § 87(2)(b) did not personally know § 87(2) § 87(2) before this incident but had read about him and recognized him by face immediately. § 87(2)(b) was unable to hear the extent of the conversation between § 87(2) § 87(2) and Officer Zorrilla. § 87(2) § 87(2) then got into his car and moved his vehicle southbound. § 87(2) § 87(2) was originally parked in front of Jimbo’s Restaurant on the corner of West 137th Street and Lenox Avenue and then moved his car directly south of a fire hydrant (see enclosure 12a, CCRB canvass photograph two, where at the time of this interview there was a black BMW parked in this parking spot). § 87(2)(b) initially stated that this second parking space was not in a bus stop, because it was south of the bus shelter. When § 87(2)(b) was informed that the black BMW was parked north of the bus stop pole, which marks the beginning of the bus stop, § 87(2)(b) acknowledged that § 87(2) § 87(2)(b)’s second parking space was still within the bus stop.

A white male police officer (Officer Polesovsky) approached Officer Zorrilla and started to talk to her. § 87(2) § 87(2) then went inside of a restaurant. When § 87(2) § 87(2) exited the restaurant, he saw Officer Zorrilla writing him a ticket. He said to Officer Zorrilla, “What are you writing me a ticket for? I did what you told me to do. I moved down.” Officer Polesovsky said to § 87(2) § 87(2)(b) “She didn’t like your attitude.” § 87(2) § 87(2) and Officer Polesovsky started to “bicker.” § 87(2) § 87(2) then said to Officer Polesovsky, “I want your name.” Officer Polesovsky refused to provide his name and walked away without saying anything. § 87(2) § 87(2) said, “I will find out your name” and kept saying “I want your name.” Officer

Polesovsky never said his name to § 87(2) § 87(2) or pointed to his shield. § 87(2)(b) did not believe that § 87(2) § 87(2) was ever yelling at the officers. At one point, Officer Polesovsky said something unintelligible in return to § 87(2) § 87(2)(b). § 87(2)(b) then walked over to § 87(2) § 87(2) to keep him away from Officer Polesovsky. § 87(2)(b) explained, “I know how officers are. You don’t get too close to them, because all they need is an excuse.” § 87(2)(b) grabbed onto § 87(2) § 87(2)(b)’s waist and stomach and said, “Come on, § 87(2) § 87(2)(b). This is not worth it.” At the same time, some of the “sisters” from the church walked over and also told § 87(2) § 87(2) to stay away from Officer Polesovsky, but § 87(2)(b) did not know who these people were. At around the same time, Officer Zorrilla said to § 87(2) § 87(2)(b) “Don’t worry. There won’t be no ticket.” § 87(2)(b) never saw any of the officers remove handcuffs. After this incident, § 87(2)(b) read an article about the incident in the § 87(2)(b), but he affirmed that his testimony in this interview was from his personal memory and not anything that he had read in the press.

§ 87(2)(b)

The CCRB obtained a telephone statement from § 87(2)(b) on March 28, 2007 (encl. 26d) and interviewed her in person at her office at § 87(2)(b) § 87(2)(b) in Manhattan on April 2, 2007 (encl. 26e). § 87(2)(b) § 87(2)(b)’s statements were consistent with each other with only exceptions noted below. § 87(2)(b) § 87(2)(b) a § 87(2)(b) § 87(2)(b)ld black woman employed as a librarian and consultant for the Ford Foundation, has known § 87(2) § 87(2) for sixteen years as the § 87(2)(b) § 87(2)(b). § 87(2)(b) § 87(2)(b) provided the CCRB with only her work address but said that she lives in the neighborhood surrounding the § 87(2)(b) § 87(2)(b).

§ 87(2)(b) testified that on October 14, 2006, at approximately 6:00 p.m., she exited a beauty salon that is located directly next to Jimbo’s Restaurant on the corner of West 137th Street and Lenox Avenue. § 87(2)(b) § 87(2)(b) waited at a bus stop in front of the salon and observed § 87(2) § 87(2) exit a vehicle that he had parked south of the bus stop. § 87(2)(b) § 87(2)(b) had been inside of her hair salon for approximately two hours and while inside, she was unable to hear or see anything that was transpiring outside. § 87(2)(b) § 87(2)(b) was waiting for the bus at the bus shelter but said that the bus stop extends south of the shelter and that there is a bus pole and sign marking the beginning of the bus stop zone. § 87(2) § 87(2) was parked south of this pole, but § 87(2)(b) § 87(2)(b) could not recall if § 87(2) § 87(2) was double-parked or parked at a meter space. When § 87(2) § 87(2) exited his vehicle, § 87(2)(b) § 87(2)(b) was too far away from § 87(2) § 87(2) to be able to hear anything that he may have been saying. There were four officers walking away from § 87(2) § 87(2) and approaching the corner of West 137th Street and Lenox Avenue. The officers were “nowhere near” § 87(2) § 87(2)(b) and § 87(2) § 87(2) walked towards them. It appeared as though as far as the officers were concerned the encounter with § 87(2) § 87(2) was over, but § 87(2) § 87(2) was attempting to finish a conversation that had started before § 87(2)(b) § 87(2)(b) was present. § 87(2) § 87(2) followed the officers and said, “Why won’t you give me your names?” § 87(2)(b) § 87(2)(b) did not hear § 87(2) § 87(2) say anything before making this request and did not believe that § 87(2) § 87(2) also asked for the officers’ “badge numbers.” § 87(2)(b) § 87(2)(b) believed that one of the officers—who she identified as “Officer Polesovsky”—either did not respond at all or may have said, “Because we don’t have to.” § 87(2)(b) § 87(2)(b) stated that she believed that officers were only required to provide their shield numbers but not their names. Officer Polesovsky never pointed at his nameplate or shield, but they were visible to § 87(2)(b) § 87(2)(b) saw a very angry expression on § 87(2) § 87(2)(b)’s face. In the sixteen years that § 87(2)(b) § 87(2)(b) has known § 87(2) § 87(2)(b) she said that she had never seen him “irate” or anything but composed. After she saw this facial expression, § 87(2)(b) § 87(2)(b) became more focused on the encounter and decided to become involved by approaching § 87(2) § 87(2)(b) Officer Polesovsky was about four to five feet away from § 87(2) § 87(2) and facing him at a side angle, when § 87(2) § 87(2) asked for this information. In her telephone statement, § 87(2)(b) § 87(2)(b) described the distance between § 87(2) § 87(2) and the officers as fifteen to twenty feet when § 87(2) § 87(2) requested their names. Also in her telephone statement, § 87(2)(b) § 87(2)(b) said that the officers did not provide any response to § 87(2) § 87(2)(b)’s request, and § 87(2)(b) § 87(2)(b) did not claim that Officer Polesovsky said, “Because we don’t have to.” In this statement, § 87(2)(b) § 87(2)(b) claimed that despite not responding to the request, the officers would have heard it unless they were hearing impaired, because § 87(2) § 87(2) was speaking in a raised voice. In her sworn statement, § 87(2)(b) § 87(2)(b) stated that although Officer Polesovsky had been walking away from § 87(2) § 87(2) previously, he stopped and turned around when § 87(2) § 87(2) requested his name. It appeared as though § 87(2) § 87(2) was directing his request to all of the officers but especially Officer Polesovsky. § 87(2) § 87(2) asked Officer Polesovsky for his name a second time and § 87(2)(b) § 87(2)(b) believed that he again said, “Why won’t you give me your names?” and also “with as much as I’ve done for the community.” § 87(2)(b) § 87(2)(b) did not remember anything else that § 87(2) § 87(2) said to the officers and the closest that she saw § 87(2) § 87(2) come to the officers was within three to four feet.

Officer Polesovsky never provided the requested information, which appeared to make § 87(2)(b) § 87(2)(b) even more upset. § 87(2)(b) § 87(2)(b) believed that she approached § 87(2)(b) § 87(2)(b) only after he had made these two requests for the officers' names. When § 87(2)(b) § 87(2)(b) approached § 87(2)(b) § 87(2)(b) and the officers, § 87(2)(b) § 87(2)(b) was able to read the names "Zorrilla and Polesovsky" from the nameplates of two of the officers, but she never requested the information directly from the officers.

§ 87(2)(b) § 87(2)(b) said to Officer Polesovsky, "Do you know to whom you are speaking? You may want to take a breath." Officer Polesovsky asked her, "Are you threatening me?" § 87(2)(b) § 87(2)(b) said, "No. I am making a promise." § 87(2)(b) § 87(2)(b) did not remember the sum or substance of what Officer Polesovsky had been saying when she made these comments to him, but she remembered that he was speaking in a "tone" and with an "attitude" that struck her as disrespectful. In her telephone statement, § 87(2)(b) § 87(2)(b) said that Officer Polesovsky spoke to § 87(2)(b) § 87(2)(b) with an attitude that said, "You're a black man in a suit," but "I'm in charge." A second officer—who § 87(2)(b) § 87(2)(b) identified by name as "Officer Zorrilla"—appeared to be trying to calm the situation by talking to § 87(2)(b) § 87(2)(b) but without giving him the information that Officer Polesovsky wanted to withhold from him. § 87(2)(b) § 87(2)(b) could not remember exactly what Officer Zorrilla was saying or the substance of the comments. As § 87(2)(b) § 87(2)(b) continued to follow the officers, § 87(2)(b) § 87(2)(b) and one other person—who she did not know by name—put a hand onto § 87(2)(b) § 87(2)(b)'s arm to hold him back. § 87(2)(b) § 87(2)(b) described the second person holding § 87(2)(b) § 87(2)(b) back as a black man wearing a hat, who was 5'10," 160 pounds, and approximately 40 years old. § 87(2)(b) § 87(2)(b) never saw any officer writing § 87(2)(b) § 87(2)(b) a summons and did not see any of the officers remove their handcuffs or tell § 87(2)(b) § 87(2)(b) that he could be arrested. § 87(2)(b) § 87(2)(b) told § 87(2)(b) § 87(2)(b) that she had obtained the names of two of the officers. § 87(2)(b) § 87(2)(b) did not say anything to § 87(2)(b) § 87(2)(b) and she was not certain if what she was saying was registering to him. § 87(2)(b) § 87(2)(b) never wrote down the officers' names but just remembered them and provided the information to § 87(2)(b) § 87(2)(b) verbally approximately one to two weeks later. § 87(2)(b) § 87(2)(b) thanked § 87(2)(b) § 87(2)(b) and told her that this information would be useful to him, because he was planning on filing a complaint. § 87(2)(b) § 87(2)(b) heard that there was media coverage regarding this incident and read an article on the website of either the § 87(2)(b) § 87(2)(b) or § 87(2)(b) § 87(2)(b). § 87(2)(b) § 87(2)(b) described Officer Polesovsky as a white man, who was approximately 6'0" tall and weighed 170 to 180 pounds. She described Officer Zorrilla as a Hispanic woman, who was 5'4" with a medium skin tone. § 87(2)(b) § 87(2)(b) only saw the other two to three officers from behind and believed that they were white males. § 87(2)(b) § 87(2)(b) did not recognize any of the other civilians who were on this street and witness to this incident.

Attempts to Contact Additional Witnesses

The CCRB called the owner of Jimbo's Restaurant, § 87(2)(b) § 87(2)(b), who said that he had not witnessed the incident under investigation. He provided the CCRB with the name of a store employee who may have seen it. In a March 5, 2007 telephone conversation with the CCRB, this employee, § 87(2)(b) § 87(2)(b) said that he wasn't working on the date of this incident and had just heard about the incident from § 87(2)(b) § 87(2)(b), another store employee. On this same date, the CCRB spoke with § 87(2)(b) § 87(2)(b) in Spanish, who said that he was working in the store on the date of the incident when § 87(2)(b) § 87(2)(b) entered and ordered food. The store was very busy and § 87(2)(b) § 87(2)(b) never left the store or witnessed any of the interaction between § 87(2)(b) § 87(2)(b) and the officers. § 87(2)(b) § 87(2)(b) said that he learned about the incident afterwards, when he saw reporters at the scene asking questions and taking photographs. § 87(2)(b) § 87(2)(b) did not know of any store employees or anyone else who would have witnessed the incident. On March 5, 2007, the CCRB spoke with § 87(2)(b) § 87(2)(b) the owner of the beauty salon, who said that he exited his store after seeing people on the street but did not witness any of the incident. When he walked outside to smoke a cigarette, he saw a group of police officers walking away. He later learned that the dispute concerned a traffic summons, but he did not know any of the people involved and did not hear or see any interaction between § 87(2)(b) § 87(2)(b) and the officers (encl. 39h).

POLICE OFFICER STATEMENTS

Police Officer Stephen Polesovsky (32nd Precinct) Subject Officer

On February 9, 2007, the CCRB interviewed Police Officer Stephen Polesovsky at the CCRB (encl. 24). Officer Polesovsky § 87(2)(b) § 87(2)(b)

§ 87(2)(b) § 87(2)(b) Since January 9, 2007, Officer Polesovsky has been assigned to the Patrol Bureau Manhattan North Task Force. Previously, Officer Polesovsky was assigned to the 32nd Precinct in Manhattan since his graduation from the Police Academy in June 2006. On October 14, 2006, Officer

Polesovsky was assigned to Operation Impact foot post 14, covering the area of Lenox Avenue from West 144th Street to West 145th Street. Officer Polesovsky worked from 5:30 p.m. until 2:05 a.m. on the following day with Officer Zorrilla, was dressed in uniform, and was not assigned to a motor vehicle. Officer Polesovsky did not have any formal memo book entries regarding this incident, although on the back page of a memo book page, he noted that at 5:58 p.m., Officer Zorrilla issued summons § 87(2)(b) for parking in a bus stop. Officer Polesovsky also wrote “Guerrido, Ross,” indicating that Officers Bianca Guerrido and Allison Ross were also present (encl. 27c).

Officer Polesovsky testified that on October 14, 2006, at approximately 5:58 p.m., he was walking north on Lenox Avenue towards his assigned foot post. When he arrived at West 137th Street and Lenox Avenue, Officer Polesovsky observed that there were three cars parked in a bus stop. The bus stop was located in the center of the block and parking was therefore prohibited north of the center of the block of Lenox Avenue between West 136th and West 137th Street. Officer Polesovsky waved at the driver of the center car, indicating for him to drive away, which he did. The southern most car was unoccupied, and Officer Polesovsky wrote a summons to this car for parking in a bus stop, although he did not note it in his memo book. Officer Zorrilla approached the northern most car, which was close to the corner of West 137th Street and Lenox Avenue. Although Officer Polesovsky was still completing a summons, he stated that he was looking up regularly to ensure for his partner’s safety. Officer Polesovsky observed Officer Zorrilla approach this vehicle and wave at the occupants of the car in order to indicate to them that they should move their vehicle. A woman, who Officer Polesovsky later learned was the wife of § 87(2) § 87(2)(b) exited the front passenger seat of the vehicle and approached Jimbo’s restaurant and knocked on the front window of the store. Mrs. § 87(2) got back into the front passenger seat of the car after alerting § 87(2) § 87(2)(b) (Officer Polesovsky referred to § 87(2) § 87(2)(b) as “§ 87(2) § 87(2)(b)” throughout this interview but stated at the time of this incident, he did not know § 87(2) § 87(2)(b)’s name or anything else about him.) Within about ten seconds, § 87(2) § 87(2)(b) exited the restaurant without any food in his hands. At this point, Officer Polesovsky had completed writing the summons for the other car and approached Officer Zorrilla. § 87(2) § 87(2)(b) walked past Officer Zorrilla, and without stopping, said in an “extremely nasty” tone, “You can’t even let me pay for my food.” At this point, Officer Zorrilla was standing in the center of the sidewalk, midway between the curb and the restaurant and was not in the process of issuing a summons to § 87(2) § 87(2)(b). Officer Polesovsky was about five to seven yards away from § 87(2) § 87(2)(b). Officer Zorrilla appeared to be “stunned” that § 87(2) § 87(2)(b) had just yelled at her when she had allowed him to move his vehicle instead of writing a summons. § 87(2) § 87(2)(b) drove his vehicle about six car lengths south into the southern most parking space within the bus stop and parked his car in a spot that was in front of a fire hydrant near the start of the bus stop. After Officer Polesovsky had completed writing the summons to the vehicle that was previously in this southern most spot, the driver of this vehicle returned and moved his vehicle away. Officer Polesovsky believed that there were legal spots on the block governed by parking meters but that none of them were unoccupied at the time of this incident.

Officer Zorrilla went to write § 87(2) § 87(2)(b) a summons, because he had not moved out of the bus stop and was now also parked in front of a fire hydrant. Officer Polesovsky told Officer Zorrilla to approach the rear of the vehicle, so that she could write the summons without getting into a confrontation with § 87(2) § 87(2)(b) who had already yelled at her. Officer Polesovsky said that the decision to write the summons was Officer Zorrilla’s and that he did not have any further discussion with her about it. Officers Polesovsky and Zorrilla were standing two to three yards behind and slightly to the right of § 87(2) § 87(2)(b)’s car and on the sidewalk. § 87(2) § 87(2)(b) got out of his vehicle and said to Officer Zorrilla, “I know you’re not writing me a ticket!” Officer Polesovsky told § 87(2) § 87(2)(b) that he was receiving a summons, because he was parked in a bus stop and that if he hadn’t “given us attitude,” it would have made it easier for the officers to walk away. At his CCRB interview, Officer Polesovsky said that the officers could have written § 87(2) § 87(2)(b) two additional summonses for parking in the bus stop originally and then for blocking the fire hydrant.

§ 87(2) § 87(2)(b) started to scream about what an “important person” he was, although he never specifically stated who he was. § 87(2) § 87(2)(b) just said, “You don’t know how important I am!” Information did come out in increments with § 87(2) § 87(2)(b) saying that he was important to his community. § 87(2) § 87(2)(b) also said six to seven times that he had voluntarily given the police department his fingerprints, but Officer Polesovsky did not know what he meant by this statement. § 87(2) § 87(2)(b) took out a shield that Officer Polesovsky did not recognize and quickly flashed it. § 87(2) § 87(2)(b) did not say what kind of shield it was, but

Officer Polesovsky believed that he read “public health inspector” from it. Officer Polesovsky told § 87(2)(b) that the entire incident could have been avoided if he had told the officers who he was or if he had moved his vehicle away from the bus stop. As § 87(2)(b) continued to argue with the officers, a crowd of approximately 20 to 30 people gathered around, most of them “angry old people.” Officer Polesovsky believed that the employees of Jimbo’s Restaurant remained inside throughout the incident. Consulting his memo book, Officer Polesovsky said that Officers Guerrido and Ross had also walked by during the incident. The members of the crowd appeared to know § 87(2)(b) and were yelling at the officers that they would be fired for issuing a summons to him and that they didn’t know who they were dealing with. § 87(2)(b) did eventually identify himself as a § 87(2)(b) but he “did not tell us where he was a § 87(2)(b) or how important he was.” Officer Polesovsky did not recall if Officer Zorrilla handed the summons to § 87(2)(b) or if she placed it on the windshield of the car.

§ 87(2)(b) said to Officer Polesovsky two to three times, “I want your name and I want your badge number.” The first two times that § 87(2)(b) asked for his name and shield number, Officer Polesovsky responded, “It’s right here” and pointed at his nameplate. Afterwards, he responded by telling § 87(2)(b) that he had already told him that it was on his nameplate and shield holder. Officer Polesovsky never said, “We don’t have to give you anything” and did not know why § 87(2)(b) continually asked for the information. § 87(2)(b) looked at Officer Polesovsky’s nameplate and asked him where he worked. Officer Polesovsky told § 87(2)(b) that he worked at the 32nd Precinct. There was a woman next to § 87(2)(b) who recorded Officer Polesovsky’s name and shield number onto a piece of paper and about two other people also wrote down this information. This person was within a few inches of Officer Polesovsky and he personally observed his name and shield number written on this sheet of paper. Officer Polesovsky saw § 87(2)(b) read this sheet of paper as well. When asked why he never explicitly stated his name and shield number to § 87(2)(b), Officer Polesovsky stated that he was not certain that he hadn’t done so. Officer Polesovsky said that § 87(2)(b) was within six inches of Officer Polesovsky when Officer Polesovsky responded to his request and it would have been “absolutely impossible” for § 87(2)(b) to have not heard his response.

§ 87(2)(b) said to Officer Polesovsky that he was going to follow him around Harlem until Officer Polesovsky arrested him, if he did not provide his shield number. Officer Polesovsky told § 87(2)(b) several times that if he did not disperse, he would be guilty of disorderly conduct and that he would be “going to jail.” § 87(2)(b) responded that he was going to continue to follow him around. At his CCRB interview, Officer Polesovsky quoted “penal law 240.20” and several subsections of the disorderly conduct statute. He said that § 87(2)(b) was in violation of that law for “failing to disperse” and also for “obstructing pedestrian traffic,” because his actions had caused a crowd to gather, which was blocking the sidewalk. Officer Polesovsky said of § 87(2)(b) “Once he saw this crowd was gathering, he saw it as his own little pulpit to preach and scream at the officers.” § 87(2)(b) “made several attacks on me, because I was a white police officer.” He told Officer Polesovsky that all of the white police officers in Harlem were scared and that was why they walked in a group of four. § 87(2)(b) was standing within six inches of Officer Polesovsky and his demeanor was “nasty” and loud. After § 87(2)(b) said that he would follow Officer Polesovsky until he was arrested, Officer Polesovsky said, “OK” and removed his handcuffs from his equipment belt. At that moment, Officer Polesovsky intended to arrest § 87(2)(b). He decided not to arrest § 87(2)(b) because “he just wasn’t worth it and he was going to cause too much of a problem” and a “headache.” § 87(2)(b) apparently “likes to break the law and likes to get away with it.” Officer Polesovsky explained that § 87(2)(b) “was already bad enough on the street—never mind in handcuffs” and that arresting him would have caused “more grief and paperwork” for Officer Polesovsky and would have further upset § 87(2)(b). Officer Polesovsky did not remember any members of the crowd physically restraining § 87(2)(b) or holding him away from the officers. The incident ended, when Officers Polesovsky and Zorrilla decided to walk away and Officer Polesovsky put his handcuffs away. Once they walked half a block north, none of the civilians involved in this incident followed them. At the time of this interview, no one from the NYPD had interviewed Officer Polesovsky in regards to this incident and he did not complete any additional paperwork in regards to this incident.

Police Officer Gipsi Zorrilla (32nd Precinct) Subject Officer

Summons

On October 14, 2006, at 5:58 p.m., Officer Zorrilla issued summons § 87(2)(b) to the vehicle occupied by § 87(2) § 87(2) for parking in a bus stop in front of 527 Lenox Avenue in Manhattan (encl. 30). Officer Zorrilla signed a statement affirming that if the occupant of the vehicle was present, his name was recorded or the “ID refused” box was checked and the summons was personally served to him. Officer Zorrilla did not in fact write § 87(2) § 87(2)(b) s name on the summons or check the “ID refused” box. Officer Zorrilla also omitted the vehicle registration expiration date from the summons.

CCRB Statement

On February 13, 2007, the CCRB interviewed Police Officer Gipsi Zorrilla at the CCRB (encl. 31). Officer Zorrilla, a § 87(2)(b) Officer Zorrilla has been assigned to the 30th Precinct since January 2007. Since her graduation from the Police Academy in June 2006 until January 2007, Officer Zorrilla was assigned to the 32nd Precinct. Officer Zorrilla did not have memo book entries regarding this incident (encl. 29).

Officer Zorrilla testified that § 87(2) § 87(2)(b) s car was on the only vehicle parked in the bus stop when she first observed it. When § 87(2) § 87(2) exited Jimbo’s Restaurant to move his vehicle, he said in a “nasty” voice and with “attitude,” “I can’t even buy food, and you’re already giving me a ticket.” At the time, Officer Zorrilla was standing outside of the restaurant speaking with another officer who was walking by. Officer Zorrilla did not know this officer’s name (identified as Officer Guerrero) and could not describe the race or gender of the officer. Officer Zorrilla said that Officer Guerrero did not remain at the scene of this incident. § 87(2) § 87(2) then got into the driver’s seat of the vehicle and moved the vehicle two feet south to a spot that was still within the bus stop and in front of a fire hydrant. (See enclosure 31d, which is drawn by Officer Zorrilla with C1 representing § 87(2) § 87(2)(b) s first parking space and C2 representing the second parking space. The drawing is not to scale, and Officer Zorrilla said that the actual distance between C1 and C2 was two feet. The distance between the start of the bus stop and the corner of West 137th Street and Lenox Avenue was approximately 15 feet. Officer Zorrilla affirmed that C1 was in the center point between the start of the bus stop and the corner of West 137th Street and Lenox Avenue. Officer Zorrilla could not describe the exact location of the fire hydrant but said that it was located approximately at the front of § 87(2) § 87(2)(b) s car in C2.) Seeing that § 87(2) § 87(2) was not going to move his car out of the bus stop, Officer Zorrilla approached the rear license plate of the car from on the sidewalk in order to write him a summons. Officer Zorrilla did not initially intend to issue a summons to § 87(2) § 87(2) and only decided to do so once he moved his car to the second parking space and exited the vehicle. Officer Zorrilla said that she could have written § 87(2) § 87(2) three summonses: two for parking in the bus stop and one for the fire hydrant. Officer Zorrilla initially stated that she did not know if the summons that she issued was for the first or second parking violation or encompassed both. After being asked follow-up questions, Officer Zorrilla said that the summons was issued for parking in the second parking space and that she used her discretion to excuse the initial parking violation. When asked why she did not issue § 87(2) § 87(2) an additional summons for parking in front of a fire hydrant, Officer Zorrilla responded, “I just didn’t” and said that she did not know why and did not consider doing it at the time of the incident.

As she started to write the summons, § 87(2) § 87(2) exited the vehicle and was “screaming” in an angry voice and with “attitude,” “I know that you’re not writing a ticket to my car.” Officer Polesovsky, who had been about one car length away writing a summons to a different vehicle that was double-parked south of the bus stop, came over to Officer Zorrilla and § 87(2) § 87(2)(b) Officer Polesovsky told § 87(2) § 87(2) that he had just needed to move his car and could have avoided the summons, but Officer Polesovsky never told § 87(2) § 87(2) that he was getting a summons because he showed “attitude.” Officer Zorrilla did not remember if she physically handed the summons to § 87(2) § 87(2) or if she placed it on the windshield of the car. Officer Zorrilla was attempting to calm § 87(2) § 87(2) down and told him that she would discuss the summons with her supervisor later. Meanwhile a crowd of approximately 20 unknown civilians gathered and some people were yelling at the officers that they were going to get fired for issuing § 87(2) § 87(2) a summons. § 87(2) § 87(2) told the officers that his “power would fall upon” them. As Officer Polesovsky was walking away from § 87(2) § 87(2) and was about ten feet north of him, § 87(2) § 87(2) yelled, “I want your name! I want your name!”

Officer Zorrilla thought that § 87(2)(b) who was two feet away from her, was speaking to her and stated her name and shield number, but § 87(2)(b) said, “I’m not talking to you. I want your name. I want your name,” referring to Officer Polesovsky. Officer Zorrilla believed that Officer Polesovsky did not hear this first request, because he did not turn around or acknowledge it. After § 87(2)(b) asked the second and third times in immediate succession for Officer Polesovsky’s name and shield number. Officer Polesovsky turned around and walked towards § 87(2)(b). When he was about five feet away from § 87(2)(b), Officer Polesovsky grabbed onto his shield and nameplate and held them outward slightly while still attached to his uniform. Officer Zorrilla did not hear if Officer Polesovsky responded verbally in any way to this request, because there were too many people in the crowd speaking at the time. Officer Zorrilla never heard Officer Polesovsky say, “We don’t have to give you anything.” Officer Zorrilla did not see anyone in the crowd write down Officer Polesovsky’s name. Officer Zorrilla did not see § 87(2)(b) write down this information either and presumed that he was satisfied with Officer Polesovsky’s response because he stopped asking. § 87(2)(b) told Officer Polesovsky that he “did not deserve to work in the community.” Officer Zorrilla interpreted this comment as a racial reference, because § 87(2)(b) was a black man in a black community and was directing his anger against Officer Polesovsky, a white officer, despite the fact that Officer Zorrilla was the officer issuing him a summons. Officer Zorrilla did not remember § 87(2)(b) making any comments in which he explicitly mentioned Officer Polesovsky’s or his own race.

After showing § 87(2)(b) his shield, Officer Polesovsky turned around and started to walk away with Officer Zorrilla. § 87(2)(b) then started to follow Officers Polesovsky and Zorrilla, as they attempted to walk away. § 87(2)(b) said that he was going to keep following Officer Polesovsky and “wanted to get arrested.” At this point, § 87(2)(b) did not again request Officer Polesovsky’s name and shield number. Officer Zorrilla said that Officer Polesovsky was just looking at § 87(2)(b) and did not verbally respond. Officer Zorrilla was trying to tell § 87(2)(b) to calm down, but he did not acknowledge that she was speaking to him. Officer Polesovsky grabbed onto his handcuff case that was affixed to the front of his equipment belt while he was facing § 87(2)(b), but Officer Zorrilla never saw Officer Polesovsky remove his handcuffs or verbally tell § 87(2)(b) that he could be arrested. At this point, § 87(2)(b) and Officer Polesovsky were about five feet away from each other and facing each other. § 87(2)(b) followed the officers all the way to the corner, but the incident ended, because the officers kept walking away and § 87(2)(b) did not continue to follow them. Officer Zorrilla did not see anyone in the crowd attempt to pull § 87(2)(b) away from the officers and she did not see where § 87(2)(b) went as the officers were walking away. Later in the night, Officer Zorrilla informed her supervisor, Sgt. (Ray) Thorney, about the incident in the presence of Officer Polesovsky. Sgt. Thorney told Officer Zorrilla to process the summons. Officer Zorrilla was not interviewed about this incident by anyone else in the NYPD.

Police Officer Bianca Guerrido (32nd Precinct) Witness Officer

On February 23, 2007, the CCRB interviewed Police Officer Bianca Guerrido at the CCRB (encl. 33). Officer Guerrido, a § 87(2)(b). Since January of 2007, Officer Guerrido has been assigned to the 26th Precinct. From her graduation from the Police Academy in June 2006 until January 2007, Officer Guerrido was assigned to the 32nd Precinct.

On October 14, 2006, Officer Guerrido worked from 6:00 p.m. until 2:35 a.m., was assigned to an Operation Impact foot post in the 32nd Precinct with Officer Zorrilla and was dressed in uniform. Officer Guerrido did not have any memo book entries regarding this incident (encl. 32). Officer Guerrido stated that once § 87(2)(b) moved his car at Officer Zorrilla’s request, he was still parked within the bus stop and in front of a fire hydrant. After moving the car, § 87(2)(b) exited the vehicle and went into the restaurant without saying anything to the officers. Once § 87(2)(b) was inside of the restaurant, Officer Zorrilla started to write him a summons—presumably because he had not moved the vehicle out of the bus stop. § 87(2)(b) exited the restaurant and started to scream at Officer Zorrilla, “You couldn’t even let me finish my meal!” Officer Zorrilla explained that he had not moved his vehicle out of the bus stop. § 87(2)(b) continued to yell and scream and was being aggressive. Officer Polesovsky, who had been writing a summons to another car that was double-parked south of the bus stop, approached § 87(2)(b) and Officer Zorrilla. Officer Polesovsky told § 87(2)(b) that he was receiving a summons because he had not moved his vehicle. Officer Polesovsky did not tell § 87(2)(b) that he was receiving the summons because he showed “attitude.” § 87(2)(b) started to scream at Officer Polesovsky and told him that he did not belong

in the neighborhood. § 87(2) § 87(2) then screamed at Officer Polesovsky, “I want your badge number!” Officer Polesovsky grabbed onto his nameplate and shield and said, “It’s right here.” Officer Guerrido only heard § 87(2) § 87(2) request this information one time. Officer Guerrido said that § 87(2) § 87(2) was angry and “offered to fight Officer Polesovsky” by approaching him. Officer Guerrido believed that § 87(2) § 87(2) unbuttoned the first button of his shirt collar and rolled up his sleeves while approaching Officer Polesovsky and was turning red in the face. At this point, Officer Polesovsky removed his handcuffs, but Officer Guerrido could not remember if Officer Polesovsky said anything while doing so. The incident ended when Officer Polesovsky put his handcuffs away, and the officers walked away from § 87(2) § 87(2)(b). While § 87(2) § 87(2) was yelling at Officer Polesovsky, a woman in the crowd grabbed onto § 87(2) § 87(2)(b)’s arm to keep him away, but Officer Guerrido did not remember anyone else intervening. Officer Guerrido believed that § 87(2) § 87(2) took the summons out of Officer Zorrilla’s hand at one point during the incident.

Police Officer Allison Ross (32nd Precinct) Witness Officer

On February 23, 2007, the CCRB interviewed Police Officer Allison Ross at the CCRB (encl. 35). Officer Ross, a § 87(2)(b) Since January 2007, Officer Ross has been assigned to the Central Park Precinct. From her graduation from the police academy in June 2006 until January 2007, Officer Ross was assigned to the 32nd Precinct. On October 14, 2006, Officer Ross worked from 5:30 p.m. until 2:05 a.m., was dressed in uniform, and assigned to a foot post on Lenox Avenue between West 141st and 142nd Streets. Officer Ross did not have any memo book entries regarding this incident (encl. 34).

Officer Ross testified that § 87(2) § 87(2) moved his vehicle to a parking space that was still within the bus stop and within range of a fire hydrant. Officer Polesovsky, who had been nearby, approached Officer Zorrilla and § 87(2) § 87(2)(b). Officer Ross could not hear what Officers Zorrilla and Polesovsky were saying to § 87(2) § 87(2)(b) but she heard § 87(2) § 87(2) yell at Officer Polesovsky, “Give me your shield number!” Officer Ross could not hear Officer Polesovsky’s verbal response but saw him point at his nameplate and shield holder. Officer Ross said that she could only hear § 87(2) § 87(2) and not Officer Polesovsky, because § 87(2) § 87(2) was yelling. Officer Ross described § 87(2) § 87(2) as “loud and aggressive” but could not recall specifically what § 87(2) § 87(2) was saying. At one point, § 87(2) § 87(2) said to Officer Polesovsky, “You don’t belong here.” Given the context in which the comment was made, Officer Ross believed that this comment was a racial comment. § 87(2) § 87(2) was moving his hands in an aggressive manner by pointing and “flailing” his arms at the officers and pursuing the officers. Officer Ross said that Officer Zorrilla and Polesovsky “conceded their personal space” to § 87(2) § 87(2) by backing away from him, when he approached him. The closest that § 87(2) § 87(2) ever got to Officer Polesovsky was within one arm’s length. Officer Guerrido was closer to the discussion than Officer Ross, who was several feet away from the dispute. § 87(2) § 87(2) never directed any comments or attention to Officer Ross. Officer Ross did not witness Officer Polesovsky remove his handcuffs and said that she had a lack of a visual vantage point for parts of this incident, because Officers Polesovsky and Guerrido had their backs facing Officer Ross. Officer Zorrilla was facing Officer Ross at a side angle. § 87(2) § 87(2) was facing Officer Ross for approximately three-fourths of the altercation. A few people from a crowd that had formed approached § 87(2) § 87(2) and attempted to “steer” § 87(2) § 87(2) away from the officers, but Officer Ross only saw one person—a woman—have physical contact with § 87(2) § 87(2) by grabbing onto his arm and pulling him away. The incident ended when the officers walked away from § 87(2) § 87(2)(b).

DISPOSITION OF SUMMONS

According to the chief administrative law judge of the New York City Department of Finance, the Department of Finance received § 87(2) § 87(2)(b)’s response to the summons on § 87(2)(b). On § 87(2)(b) an administrative judge dismissed the summons due to a defect (the vehicle registration expiration date was omitted). As the hearing was conducted by mail, there is audio transcript available (encl. 36).

CCRB AND CRIMINAL CONVICTION HISTORY

This complaint represents § 87(2) § 87(2)(b)’s first with the CCRB (encl. 10). A search of the OCA database by § 87(2) § 87(2)(b)’s name and date of birth revealed no known criminal convictions in New York State (encl. 38).

Officers Zorrilla and Polesovsky, both members of the service for one year, have no previously substantiated CCRB complaints (encl. 8-9).

Conclusions and Recommendations

Police Officer Identification

Officer Zorrilla acknowledged issuing a summons to § 87(2) § 87(2)(b) and Officer Polesovsky acknowledged that § 87(2) § 87(2) requested his shield number and that he threatened to arrest § 87(2) § 87(2)(b).

Undisputed Facts

No witness in this case disputes that § 87(2) § 87(2) initially left his vehicle parked in a bus stop, while he entered into a restaurant, and that Officer Zorrilla warned Mrs. § 87(2) to move the vehicle. All of the witnesses in this case agree that § 87(2) § 87(2) moved his vehicle to some extent, and that when he exited the vehicle, Officer Zorrilla had started to write him a summons. Of the police officer witnesses only Officer Polesovsky acknowledged that Officer Polesovsky mentioned that the summons was at least partially motivated by what Officer Polesovsky described as § 87(2) § 87(2)(b)'s "attitude." With the exception of Mrs. § 87(2)(b), all of the civilian and police officer witnesses in this case agreed that § 87(2) § 87(2) demanded that Officer Polesovsky provide his name and/or shield number. While there is disagreement as to whether or not Officer Polesovsky responded to this request, § 87(2) § 87(2)(b) and Officers Polesovsky and Zorrilla all agreed that § 87(2) § 87(2) requested this information at least two to three times. Only § 87(2) § 87(2) and Officers Polesovsky and Guerrido acknowledged that Officer Polesovsky removed his handcuffs and thereby threatened § 87(2) § 87(2) with arrest.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[Redacted text block]

§ 87(2)(b), § 87(2)(g)

[Redacted text block]

§ 87(2)(b), § 87(2)(g)

[Redacted text block]

§ 87(2)(b), § 87(2)(g)

[Redacted text block]

§ 87(2)(b), § 87(2)(g)

[Redacted text block]

§ 87(2)(b), § 87(2)(g)

[Redacted text block]

§ 87(2)(b), § 87(2)(g)

[Redacted text block]

§ 87(2)(b), § 87(2)(g)

Allegation A- Abuse of Authority: Police Officer Gipsi Zorrilla issued a summons to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2) § 87(2) acknowledged that he initially left his vehicle parked in the bus stop while he entered the restaurant. Section 4-08(3) of the New York City Traffic Rules and Regulations states in part: “No person shall stand or park a vehicle other than an authorized bus in its assigned bus stop...except that the operator of a vehicle may temporarily stand therein for the purpose of expeditiously receiving and discharging passengers provided such standing does not interfere with any bus about to leave or enter such zone” (encl. 2). § 87(2)

§ 87(2)(b), § 87(2)(g)

Allegation B- Abuse of Authority: Police Officer Stephen Polesovsky refused to provide his name and shield number to § 87(2)(b)

Patrol Guide procedure 203-09 states in part: “Courteously and clearly state your name, rank, shield number and command, or otherwise provide them, to anyone who requests you to do so. Allow the person ample time to note this information” (encl. 6). In *PD v. Pagan* (July 2004), a NYPD deputy commissioner ruled on a case in which an officer responded to a request for his name by pointing at his shield holder and allowing a civilian to record the information onto a sheet of paper. The judge stated that although the officer “allegedly did not verbally provide his shield number, it would appear that he nevertheless provided it, as required by Patrol Guide, Section 203-09” (encl. 5). Officer Polesovsky testified that he responded to § 87(2) § 87(2)(b)'s request for this information by pointing to his nameplate and shield and telling § 87(2) § 87(2)(b) “It’s right here.” While § 87(2)(b) denied that she ever wrote down Officer Polesovsky’s name or shield number, Officer Polesovsky stated that he observed a woman record his name and shield number onto a sheet of paper. § 87(2)(b), § 87(2)(g)

Patrol Guide procedure 203-09 requires that officers provide this information to “anyone who requests” it. § 87(2)(b), § 87(2)(g)

Allegation C- Abuse of Authority: Police Officer Stephen Polesovsky threatened to arrest § 87(2)(b)

According to section 240.20 of the New York State Penal Law, a person is guilty of disorderly conduct:

When, with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof;

1. He engages in fighting or in violent, tumultuous or threatening behavior; or
2. He makes unreasonable noise; or
3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or
4. Without lawful authority, he disturbs any lawful assembly or meeting of persons; or
5. He obstructs vehicular or pedestrian traffic; or
6. He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or
7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose (encl. 7).

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: